

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

In the Matter of)
)
 Amendment of Sections 73.606(b) and 73.622(b),)
 Table of Allotments)
 Television Broadcast Stations)
 (Goldfield, NV))

RM-_____

RECEIVED**MAY 15 2001**

To: Chief, Video Services Division
 Mass Media Bureau - Mail Stop 1800E1

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PETITION FOR RULEMAKING

1. Nevada Channel 3, Inc. ("Nevada 3"), permittee of Station KBNX(TV), Facility ID 86201, pursuant to Sections 1.401(a) and 1.420(i) of the Commission's Rules, hereby petitions the Commission to amend the analog and digital TV Tables of Allotments, Sections 73.606(b) and 73.622(b), by substituting digital Channel 31 in place of KBNX's analog Channel 7 assignment at Goldfield, Nevada. It also requests that the construction permit for KBNX be modified to specify operation on digital Channel 31 at Goldfield.

2. KBNX is an unbuilt analog station. It has no paired digital allotment. In *Advanced Television Systems*, Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order in MM Docket No. 87-268, 13 FCC Rcd. 6860, 6865 (1998), the Commission stated that for analog construction permit applications granted after April 3, 1997, the permittee would have a choice of constructing either analog or digital facilities on the specified channel allotment. The construction permit for KBNX, File No. BPCT-19970328IG, was granted on April 7, 1999. Thus Nevada 3 is free to construct its initial facilities in either the analog or digital mode.

No. of Copies rec'd 014
 List A B C D E
MMB

01-45

3. Nevada 3 intends to construct its initial facilities in the digital mode. It prefers Channel 31 because there is a co-channel digital allotment on Channel 7 at Las Vegas Nevada, which will restrict future choices of a transmitter site for KBNX. Channel 31 will allow for more site flexibility. Nevada 3 also is inclined not to invest in analog equipment where the life expectancy of the equipment would be relatively short because of the nationwide transition to digital operation. Finally, Nevada Channel 3 believes that in the long run, the UHF band will be superior to the VHF band for DTV operations.

4. Substitution of Channel 31 for Channel 7 will also have the benefit of not displacing TV Translator K07NW, Goldfield.^{1/}

5. The construction permit for KBNX may be modified in this rule making proceeding without entertaining competing expressions of interest for Channel 31, because KBNX is merely substituting one channel for another in the same community,^{2/} and the public had an opportunity to apply for a station in Goldfield when the initial Channel 7 application was filed in 1997. *See Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Rcd 4870 (1989), *recon. granted in part*, 5 FCC Rcd 7094 (1990). Moreover, if anyone else is interested in an opportunity to apply at Goldfield, Channel 7 may be retained there for that purpose.

^{1/} K07NW holds a construction permit, BPTTV-19990816JC, to change to Channel 44 but will not have to implement that permit if KBNX moves to Channel 31.

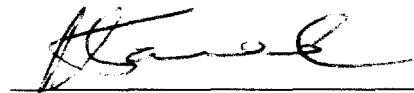
^{2/} While Nevada 3 ultimately seeks additional site flexibility for KBNX, it is not proposing a site change now. Thus the Channel 31 proposal raises no Section 307(b) issues. Goldfield is not near enough to any urbanized area for KBNX to have 50% coverage of any urbanized area.

5. The attached Engineering Statement demonstrates that Channel 31 may be allotted to Goldfield, in compliance with all applicable mileage separation requirements for a digital allotment, with the geographic coordinates of the KBNX transmitter site used as the reference point: 38° 03' 05" n. lat., 117° 13' 30" w. lon. (NAD 27). The requested power and antenna height, for which a showing in support is made in the Engineering Statement, is 671 kW at 448 meters above average terrain, which will more than replicate the analog service area and thus will result in no loss of service (even unbuilt service) to any area or population.

6. Nevada 3 commits to construct KBNX on Channel 31 if this petition is granted; and as noted above, the station will be constructed in the digital mode.

7. Accordingly, Nevada 3 requests that this petition be granted and that digital Channel 31 be substituted for analog Channel 7 at Goldfield, Nevada, with the construction permit for KBNX modified to specify operation on digital Channel 31. Nevada Channel 3 also requests prompt action, so that it may proceed with construction of its station prior to the expiration date of the construction permit, which is April 7, 2002.

Respectfully submitted,



Peter Tannenwald
Jason S. Roberts

Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Avenue, NW,
Suite 200
Washington, DC 20036-3101
Tel. 202-728-0400
Fax 202-728-0354

Counsel for Nevada Channel 3, Inc.

May 15, 2001

TECHNICAL EXHIBIT
PREPARED IN SUPPORT OF
PETITION FOR RULE MAKING TO
MODIFY THE DTV ALLOTMENT TABLE
STATION KBNX
GOLDFIELD, NEVADA

Technical Summary

This technical narrative and associated exhibits have been prepared on behalf of KBNX, Goldfield, Nevada, in support of a Petition for Rule Making to modify the TV allotment of KBNX from NTSC VHF channel 7 to DTV UHF channel 31.

Station KBNX is currently authorized by outstanding construction permit to operate on NTSC channel 7 at Goldfield, Nevada with a nondirectional effective radiated power (ERP) of 22.9 kW and an antenna height above average terrain (HAAT) of 448 meters. Station KBNX desires to implement a DTV operation in Goldfield. As KBNX's current NTSC facilities were not granted on or before April 3, 1997, it was not eligible for an initial DTV paired license. Therefore, KBNX currently has the choice of constructing an analog or DTV station on its currently authorized channel 7.¹ However, in lieu of VHF channel 7, KBNX proposes to operate a DTV operation at Goldfield on UHF channel 31.

DTV channel 31 can be substituted and allotted to Goldfield, Nevada in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates Latitude 38°03'05", Longitude 117°13'30".² In addition, operation on DTV channel 31 appears possible with an effective radiated power (ERP) of up to 671 kW utilizing a nondirectional antenna and an antenna height above average

¹ See paragraph 11 of the Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order in MM Docket No. 87-268 (adopted February 17, 1998, released February 23, 1998 (FCC 98-23)).

² This is the current site of KBNX's authorized NTSC operation on channel 7 (BPCT-19970328KG).

terrain (HAAT) of 448 meters.³ The proposed channel change is acceptable under the 2 percent criterion for *de minimis* impact applicable to DTV allotment modifications under Section 73.623(c)(2). Therefore, it is proposed to modify KBNX's authorization to specify operation on DTV channel 31 with the following specifications:

State & City	DTV Channel	DTV ERP (kW)	Antenna HAAT (m)
NV, Goldfield	31	671	448

It is also proposed to amend the DTV Table of Allotments, Section 73.622(b) of the Commission's Rules, as follows:

<u>City</u>	<u>Channel No.</u>	
	<u>Present</u>	<u>Proposed</u>
Goldfield, Nevada	--	31

Station KBNX proposes to allot UHF channel 31 at Latitude 38°03'05", Longitude 117°13'30". It is proposed to operate with an antenna radiation center height above mean sea level (RCAMSL) of 2182 meters, an antenna radiation center height above average terrain of (HAAT) of 448 meters and a nondirectional antenna maximum ERP of 671 kW.

Figure 1 is a DTV channel 31 separation study toward other NTSC and DTV allotments based on a 50 kilometer "buffer". Although the separation requirements are only applicable to new DTV allotments (i.e. not channel change proposals), they can be used as an indication of which stations have the potential of receiving interference from the proposed channel 31 DTV operation.

Figure 2 provides a summary of interference and service for the proposed channel 31 allotment. Determination

³ Equivalent maximum facilities pursuant to 73.622(f)(8)(i).

of interference and service was based on the procedures outlined in OET Bulletin No. 69 and criteria contained in Sections 73.622 and 73.623 of the FCC's rules.⁴ It is believed that the proposed channel 31 operation is in full compliance with the FCC's 2%/10% interference criteria.

Figure 3 is a map which depicts the 48 dBu and 41 dBu, noise limited contours for the proposed channel 31 DTV operation. It is noted that Goldfield is not listed in the 1990 Census. However, it is estimated that the entire population of Goldfield is within the approximate boundaries indicated on Figure 3. As indicated, all of Goldfield is located within the 48 dBu contour. Therefore, the proposed channel 31 DTV allotment will comply with the city coverage requirements contained in Section 73.625(a). Also shown on Figure 3 is the 56 dBu contour for KBNX's currently authorized NTSC channel 7 operation. As indicated, the proposed channel 31 DTV operation will provide full replication of coverage.

Studies indicate the proposed KBNX DTV channel 31 operation will not adversely impact any co-channel or pertinent adjacent channel Class A LPTV stations.

The proposal is located outside of the border areas of Canada and Mexico. Therefore, coordination with those countries will not be necessary.

⁴ The du Treil, Lundin & Rackley, Inc. DTV interference analysis program is based on the program and procedures outlined by the FCC in the Sixth Report and Order; subsequent Memorandum Opinion and Order; and FCC OET Bulletin No. 69. A nominal grid size resolution of 2 km was employed. An Alpha based processor computer system was employed. The results have been found to be in very close agreement with the results of the FCC implementation of OET Bulletin No. 69.

Conclusion

UHF DTV channel 31 can be substituted for the current VHF NTSC channel 7 allotment of KBNX in compliance with the FCC's rules concerning DTV allotment changes.



W. Jeffrey Reynolds

du Treil, Lundin & Rackley, Inc.
201 Fletcher Avenue
Sarasota, Florida 34237
(941) 3290-6000
JEFF@DLR.COM

April 6, 2001

DTV to NTSC Separation Study

Job Title : Proposed DTV Ch. 31 Separation Buffer 50 km
 Zone : 2 FCC TV DB Date : 04/02/01
 Channel 31 (572-578 MHz) Coordinates : 38-03-05 117-13-30

Call	City	Channel	ERP(kW)	Latitude	Bear.	Dist.	Req.
Status	St	FCC File No.	Zone	HAAT(m)	Longitude	True (km)	(km)

	TONOPAH		17(+)	.000	38-04-02	346.8	24.1/96.6
ALLOC.	NV	-	II	0	117-13-47	22.28	CLEAR
960920	TONOPAH		*17(+)	5.01	38-05-45	35.5	24.1/96.6
APP	NV BPET	-19960920	II	337	117-11-05	18.02	CLEAR

** End of TV Separation Study for Channel 31 **

Job Title :Proposed DTV Ch. 31
Zone : 2
Channel 31 (572-578 MHz)

Separation Buffer 50 km
FCC DTV DB Date: 04/02/01
Coordinates : 38-03-05 117-13-30

No DTV records located on this channel & within the required separation plus a safety factor.

TECHNICAL EXHIBIT
 PREPARED IN SUPPORT OF
 PETITION FOR RULE MAKING TO
 MODIFY THE DTV ALLOTMENT TABLE
 STATION KBNX
 GOLDFIELD, NEVADA

Interference and Service Summary

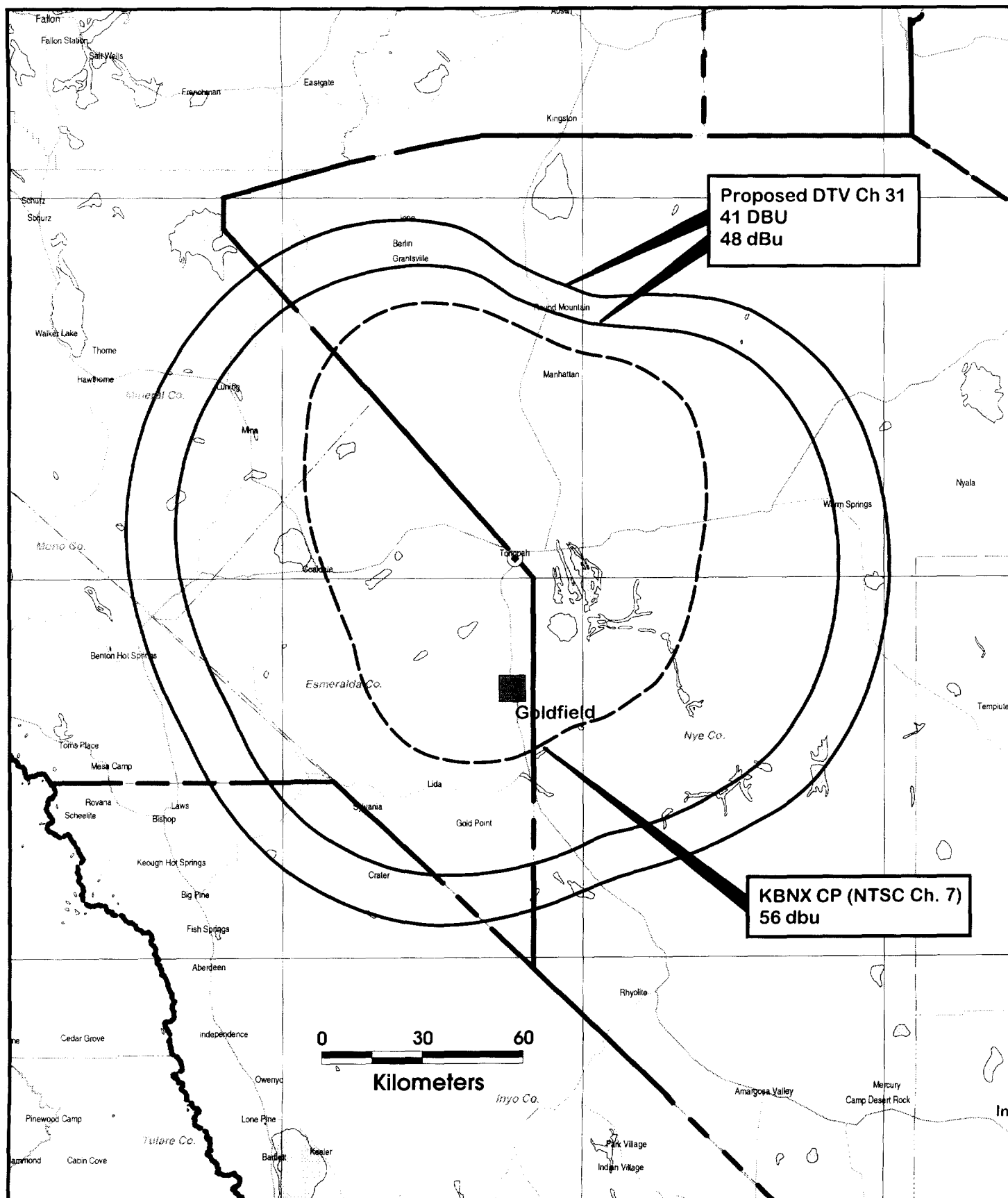
I. Interference Caused

Protected NTSC/DTV Station	FCC Service Population	Proposed Interference Population
Application, NTSC Ch. 17 Tonopah, NV (BPCT-19960920KN)	4,217	0 (0.0%)
KSMS-DT, DTV Ch. 31 Monterey, CA		
Allotment	790,000	0 (0.0%)
CP (BPCDT-19991101AFU)	1,607,011	0 (0.0%)
KMAX-TV, NTSC Ch. 31 Sacramento, CA		
License (BLCT-19841024KH)	5,553,055	0 (0.0%)
Application (BPCT-20000828ACW)	5,160,909	0 (0.0%)

II. Service

	Population
Within Noise Limited Contour	8,301
Not Affected by Terrain Losses	6,858
Lost to NTSC Interference	0
Lost to DTV Interference	0
Total Service	6,858

FIGURE 3



**PREDICTED DTV COVERAGE CONTOURS
STATION KBNX-DT
GOLDFIELD, NEVADA
CH 31 671 KW 448 M**

du Treil, Lundin & Rackley, Inc. Sarasota, Florida